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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/698,710

Applicant(s)

GEISEL ET AL.

Examiner

BRIAN FERTIG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to Applicant's filing of 12/23/2008. Claims 1-28 are pending and examiner below.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims recite a system having the following structures: an input, an image recognition module, a validation module, a balancing module, and output. When given their broadest reasonable meaning, these structures read wholly on software. Software is nonstatutory when claimed as descriptive material *per se*. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. (see MPEP § 2106.01 for further discussion).
3. The Examiner acknowledges Applicant's amendment to the preamble intended to render the claims statutory by reciting that the system is recorded on a computer readable medium, however, in view of the questionable weight given to the preamble and no positive limitation directed to requiring any of the claimed subject matter to be recorded on the claimed computer readable medium, the Examiner must sustain the rejection. The Examiner respectfully suggests positively reciting at least one of the

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modules as embodied on a computer readable medium in the body of the claim to overcome this rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-5 and 7-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,129,273 to Shah (Shah) in view of US Patent 5,040,226 to Elischer (Elischer).

With respect to claim 1

Shah teaches:

An image-enabled, financial transaction processing system recorded on a computer-readable medium and adapted for use at a point of presentment, comprising:

- an input at the point of presentment receptive of an image of a physical item at least partially embodying a financial transaction, wherein the image includes a visual record of an amount of monetary value (i.e. check reader/checker, see col 2, lines 58-67, col 5, lines 48-63, col 6, lines 15-40 and fig 3, note that the reader/checker includes an optical scanner adapted to read the amount of the check, note also the keyboard, camera, and patron card slot);

- an image recognition module adapted to extract analyze the amount of monetary value recorded in the image visual record and recognize the amount from the visual record using optical character recognition (i.e. OCR software, see col 2, lines 58-67, col 6, lines 15-40 and fig 3);

- a validation module adapted to determine whether the transaction is valid at the point of presentment based on a validation characteristic of an item (i.e check approval process, see col 2, line58-col 3, line 12, col 6, lines 15-40 and fig 3);

- an output at the point of presentment adapted to transmit information indicating whether the transaction is at least one of balanced and valid (i.e. message relayed to payee, see col 7, lines 36-41).

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Shah does not explicitly teach:

a balancing module adapted to determine whether the transaction is balanced based on the amount of monetary value;

Elischer teaches:

a balancing module adapted to determine whether the transaction is balanced based on the amount of monetary value (i.e. balance and verification module, see col 11, lines 1-25);

It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have provided the point of presentment system of Shah with the balancing features of Elischer in order to have in order to balance transactions in such a manner as to quickly find and correct unreadable or misread amounts as taught explicitly by Elischer (see col 3, lines 25-33)

With respect to claim 2

Shah in view of Elischer teaches:

The system of claim 1 (see rejection of claim 1 above), wherein said input is receptive of information in a non-image format that includes the validation characteristic (see Shah col 5, lines 48-63, col 6, lines 15-67, note that the input can read the magnetic information from the check and the patron card. Each of these sources information such as bank routing numbers and account numbers which are used in the validation process, see col 7, lines 4-41 and fig 5).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 3

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Shah in view of Elischer teaches:

The system of claim 1 (see rejection of claim 1 above), wherein the validation characteristic is visually recorded in the image (i.e. amount, signature), and said image recognition module is adapted to extract the validation characteristic recorded in the image (see Shah col 7, lines 4-41 and fig 5).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 4

Shah in view of Elisher teaches:

The system of claim 3 (see rejection of claim 3 above), wherein the validation characteristic corresponds to at least one of a routing number and an account number (i.e. bank account numbers), and said image recognition module is adapted to recognize the validation characteristic using character recognition (i.e. OCR identifies amount and verifies signatures, see Shah col 7, lines 4-41 and fig 5).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 5

Shah in view of Elischer teaches:

The system of claim 3 (see rejection of claim 3 above), wherein the validation characteristic corresponds to a signature of a party to the transaction, the system further comprising a biometric analysis module adapted to perform a similarity alignment between the signature and a signature stored in memory (see Shah col 6, lines 28-40, note the teaching of signature authentication. The teaching of

authentication fairly suggests comparing the similarity of the scanned signature to a reference, such as one stored in the payee's file).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 7

Shah in view of Elischer teaches:

The system of claim 1 (see rejection of claim 1 above), wherein said input is further receptive of an electronic substitute cash ticket (i.e. patron card) having an amount of monetary value associated therewith (i.e. credit available on card, see Shah, col 8, line 55-col 9, line 12), and said balancing module is further adapted to determine whether the transaction is balanced based on the amount of monetary value associated with the substitute cash ticket (see Shah col 9, lines 9-12 in combination with Elisher col 11, lines 1-26, note that Shah teaches the updating of the credit amount of the card and Elisher teaches a verification/balancing feature. The combined teaching fairly suggests performing a verification/balancing operation in the course of transferring credit to and from the patron card).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 8

Shah in view of Elischer teaches:

The system of claim 1 (see rejection of claim 1 above), wherein said input is receptive of multiple images of multiple physical items embodying the transaction

(see Elischer, col 11, lines 1-26, note that multiple checks and a deposit slip are taught),

wherein one image is of an item representative of the transaction as a whole (i.e. deposit slip), and said balancing module is adapted to compare totals of amounts extracted from image of items to totals of amounts visually recorded in the image of the item representative of the transaction as a whole (see Elischer, col 11, lines 1-26).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 9

Shah in view of Elischer teaches:

The system of claim 1 (see rejection of claim 1 above), wherein said balancing module is adapted to generate an electronic version of the transaction (note that an image of the no-match condition is displayed on the display module to aid in manual correction, see Elischer, col 11, lines 1-26, see also Shah, col 7, lines 36-41, message relayed to payee), said output is adapted to transmit the electronic version (see also Shah, col 7, lines 36-41, message relayed to payee), said input is receptive of supplemental information assistive in at least one of balancing and validating the transaction (see Elischer, col 11, lines 1-26, note that the operator enters key corrections to aid in balancing), and said balancing module is adapted to balance the transaction based on the supplemental information (see Elischer, col 11, lines 1-26, note that the balancing process continues based on the key corrections).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 10

Shah in view of Elischer teaches:

The system of claim 1 (see rejection of claim 1 above), wherein said output is adapted to transmit an electronic version of the transaction including the images note that an image of the no-match condition is displayed on the display module to aid in manual correction, see Elischer, col 11, lines 1-26).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 11

Shah in view of Elischer teaches:

The system of claim 10 (see rejection of claim 10 above), wherein the electronic version of the transaction includes metadata marking the transaction as a truncated transaction (see Elischer, col 11, lines 1-26, note that the meta-data is the order suggested by the sequencer and the transaction is truncated in so far as its processing is incomplete due to a no-match condition).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 12

Shah in view of Elischer teaches:

An image-enabled item processing method for use in performing a financial transaction at a point of presentment, comprising:

initiating communication with a party to a transaction at a point of presentment of physical items embodying the transaction, wherein at least

one physical item has an amount of monetary value visually recorded thereon (see Shah col 7, lines 4-41 and fig 5, note that the payee initiates the use of a check-cashing terminal by entering a PIN and that the check has the amount of value written on it);

reading item images into computer memory by generating an image record of each of the physical items and storing the image records in computer memory (see Shah col 7, lines 4-41 and fig 5, note that the scanner scans optically reads the check);

validating the transaction by comparing a validation characteristic of at least one item to a validation characteristic stored in computer memory (see Shah col 7, lines 4-41 and fig 5, note that verification is made that the check meets the check acceptance criteria);

recognizing at least one amount of monetary value recorded on the items by extracting amount sections from the item images and recognizing amounts in the extracted amount sections using optical character recognition (see Shah col 7, lines 4-41 and fig 5, note that the scanner identifies the amount of the check);

balancing the transaction at the point of presentment based on at least one recognized amount before terminating communication with the customer at the point of presentment (see Elischer col 11, lines 1-26); and

posting the transaction, including transmitting the item images to a central location having a relational database storing records of

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transactions (see Shah, col 6, lines 10-14, note that data relating to the customer transaction is downloaded. It is fairly suggested that the download is done to a central location and that it have a database since a clearing process must take place to complete the entire banking transaction since the operator of the check cashing terminal must receive the funds already advanced to the customer based on the value of the check).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 13

Shah in view of Elischer teaches:

The method of claim 12 (see rejection of claim 12 above), further comprising correcting the transaction before said balancing the transaction (see Elischer col 11, lines 1-26, note that key corrections are entered and the balancing process continues).

(see rationale supporting obviousness and motivation to combine of claim1 above)

With respect to claim 14

Shah in view of Elischer teaches:

The method of claim 13 (see rejection of claim 13 above), wherein said step of correcting the transaction includes correcting misrecognition of an item detail stored computer memory (see Elischer col 11, lines 1-26, note that key corrections are made to correct no-match situations, see also Shah col 9, lines 30-49).

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(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 15

Shah in view of Elischer teaches:

The method of claim 13 (see rejection of claim 13 above), wherein said step of correcting the transaction includes:

communicating a need for alteration of an item to the party to the transaction (see Elischer col 11, lines 1-26, note that the no-match condition is communicated to the operator);

reading an altered item image into computer memory (see Elischer col 11, lines 1-26, note that key correction are entered); and reflecting alteration of the item in the transaction (see Elischer col 11, lines 1-26, note that balancing continues based on the correction).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 16

Shah in view of Elischer teaches:

The method of claim 13 (see rejection of claim 13 above), wherein said step of correcting the transaction includes: communicating need for removal of an item to the party to the transaction; and removing the item from the transaction (see Shah col 7, lines 37-41, note that if the check does not meet matching criteria, a message is relayed to the payee, and the check is returned).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

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With respect to claim 17

Shah in view of Elischer teaches:

The method of claim 13 (see rejection of claim 13 above), wherein said step of correcting the transaction includes:

requesting at least one additional item from the party to the transaction (see Shah col 9, lines 31-49, note that a code is requested);
reading an additional item image into computer (see Shah col 9, lines 31-49, note that a code is transmitted to the ACCT); and
adding the additional item image to an electronic version of the transaction (see Shah col 9, lines 31-49, note that the processing of the check continues as before. Note that because the check is processed according to the normal process, the rescanning of the check in combination with the code fairly suggests adding the rescanned check as an additional item).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 18

Shah in view of Elischer teaches:

The method of claim 13 (see rejection of claim 13 above), wherein said step of correcting the transaction includes: communicating invalidity of an item to the party to the transaction at the point of presentment; and removing the invalid item from the transaction (see Shah col 7, lines 37-41, note that a message is communicated to payee and that the check is returned).

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(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 19

Shah in view of Elischer teaches:

The method of claim 13 (see rejection of claim 13 above), wherein said step of correcting the transaction include: reading an item image into computer memory a second time (i.e. processing the check again having been authorized to do so by the code); and replacing a first instance of the item image in computer memory with a second instance of the item image (see Shah col 9, lines 31-49, note that replacement of the image is fairly suggested by the reprocessing of the check, including the scanning.).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 20

Shah in view of Elischer teaches:

The method of claim 12 (see rejection of claim 12 above), further comprising: creating a substitute cash ticket image; and adding the substitute cash ticket image to an electronic version of the transaction (see Elischer col 11, lines 1-26 in combination with Shah col 9, lines 31-49, note that Elischer teaches a deposit slip. If the deposit slip were to fail recognition, it is fairly suggested that a replacement process similar to the one taught by Shah would be followed).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 21

See rationale supporting the rejection of claim 11 above.

With respect to claim 22

Shah in view of Elischer teaches:

The method of claim 12 (see rejection of claim 12 above), further comprising employing centralized business rules specifying validation and recognition procedures that are promulgated by a user from a central location to remote locations affording points of presentment (see Shah col 6, lines 10-14 and 41-67, note that payee's file contains validation and recognition rules. It is central in so far as it can be stored on the card and transferred between ACCTs. Note further that Shah suggests download and receipt of data related to customers files which also suggests centralization of such rules).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 23

Shah in view of Elischer teaches:

The method of claim 12 (see rejection of claim 12 above), wherein said step of validating the transaction includes comparing a code line of an item to a plurality of code lines of financial institutions prior to said balancing the transaction (see Shah col 7, lines 4-41, note that correct bank account numbers are verified. This fairly suggests comparing them to a plurality of financial institutions in so far as such a comparison is a natural verification method).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 24

Shah in view of Elischer teaches:

The method of claim 12 (see rejection of claim 12 above), wherein said step of validating the transaction includes:

identifying a party to the transaction associated with a selected one of the physical items (i.e. via PIN/identification card, see Shah col 7, lines 4-41);

extracting a signature of the party to the transaction from an item image related to the selected one of the physical items (i.e. inspect the signatures, see Shah col 7, lines 4-41); and

comparing the signature extracted from the item image to a signature of the party to the transaction stored in computer memory (see Shah, col 6, lines 28-30, note that such a comparison is suggested by the authentication of signatures).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

7. Claims 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah in view of Elischer and in further view of US Patent 4,734,859 to Hamaguchi (Hamaguchi).

With respect to claim 25

Shah in view of Elischer teaches:

The method of claim 12 (see rejection of claim 12 above), further comprising:

attempting to recognize check amounts based on images of checks of the transaction, wherein at least one attempt is governed at least in part by a code line of an associated check;

Shah in view of Elischer does not explicitly teach:

attempting to recognize a party to the transaction identity and a total transaction amount based on an image of a deposit slip of the transaction;

partially filling an electronic form representing the transaction based on successful recognition attempts; and

completely filling the electronic form based on input from at least one of the party to the transaction and a teller at the point of presentment in communication with the party to the transaction.

Hamaguchi teaches:

attempting to recognize a party to the transaction identity and a total transaction amount based on an image of a deposit slip of the transaction (see col 3, lines 9-col 4, line17, and Fig 1 note that the items, including the name of the party are recognized);

partially filling an electronic form representing the transaction based on successful recognition attempts (see col 3, lines 9-col 4, line 17, and Fig 1, note that the recognized elements are displayed for review by the user); and

completely filling the electronic form based on input from at least one of the party to the transaction and a teller at the point of presentment in communication with the party to the transaction (see col 3, lines 9-col 4, line 17, and Fig 1, note that a clerk applies the necessary corrections and complementing data, and once the corrections are accepted by customer, the form is complete).

It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have provided Shah in view of Elischer with the deposit slip processing features of Hamaguchi in order to have improved the reliability of the transaction processing system and lessen the load on the clerk as taught explicitly by Hamaguchi (see col 1, lines 38-49)

With respect to claim 26

Shah in view of Elischer and Hamaguchi teaches:

The method of claim 25 (see rejection of claim 25 above), further comprising prompting at least one of the party to the transaction and the teller at the point of presentment for input in the case of a failed recognition attempt (see Hamaguchi col 3, lines 38-60, note that the clerk is prompted, see also Shah, col 7, lines 37-41, note that a message is relayed to payee, see also Shahcol 9, lines 31-49, note that both payee and operator are prompted).

(see rationale supporting obviousness and motivation to combine of claims 1 and 25 above)

With respect to claim 27

Shah in view of Elischer and Hamaguchi teaches:

The method of claim 25 (see rejection of claim 25 above), further comprising:

making a comparison between a total amount of the electronic form and a summation of transaction item amounts present in the electronic form (See Elischer, col 11, lines 1-24, note that the transaction total is compared to the value computed from the recognized amounts); and informing at least one of the party to the transaction and the teller at the point of presentment of results of the comparison (see Elischer col 11, lines 1-24, note that the operator is informed of no match occurrences, see also Shah, col 7, lines 37-41, note that a message is relayed to payee).

(see rationale supporting obviousness and motivation to combine of claims 1 and 25 above)

With respect to claim 28

Shah in view of Elischer and Hamaguchi teaches:

The method of claim 25 (see rejection of claim 25 above), wherein said step of posting the transaction includes storing the item images in computer memory in association with the electronic form (see Hamaguchi, col 3, lines 30-34, note that the transaction is performed in combination with Shah, col 6, lines 10-14, note that data relating to the customer transaction is downloaded. As such, it must be stored until the download can occur. It is fairly suggested that the images are

associated with the electronic forms since these are documents are the record of the transaction)
(see rationale supporting obviousness and motivation to combine of claims 1 and 25 above)

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shah in view of Elischer and in further view of US Patent Application Publication 2001/0017709 for Murakami (Murakami).

With respect to claim 6

Shah in view of Elischer teaches:

The system of claim 3 (see rejection of claim 3 above), but does not explicitly teach wherein the validation characteristic corresponds to a digital watermark .

Murakami teaches:

wherein the validation characteristic corresponds to a digital watermark (see par 8)

It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have provided Shah in view of Elischer with the digital watermark features of Murakami in order to have inhibited the copying of printed matter as taught explicitly by Murakami (see par 8).

Response to Arguments

9. Applicant's arguments filed 12/23/2008 have been fully considered but they are not persuasive. With respect to Applicant's argument that the combined references fail to suggest "a balancing module" and "balancing the transaction" at the point of presentment, the Examiner respectfully disagrees.
10. Shah teaches an apparatus for automated check cashing which accomplished most of the processing at the apparatus, which the Examiner analogizes to Applicant's claimed point of presentment. In particular, Shah teaches, that the ACCT contains a computer (see col 5, line 64-col 6, line 14, and fig 2) which performs all of the processing of the various check operations. As such, Shah is not silent as to where the processing takes place, but rather, fairly suggests local processing at the point of presentment. When combined with the balancing features of Elischer, it is fairly suggested that the ACCT/point of presentment of Shah would complete the balancing processing of Elischer, thus fairly suggesting a point of presentment with balancing features.
11. The Examiner respectfully suggests that Applicant consider differentiating from the art of record by focusing particular claim language on the aspect of Applicant's invention directed to aiding the teller. The Examiner notes that Shah is directed to a machine for performing a completely automated service, and does not appear to contemplate assisting a teller as recited in examples given in Applicant's Specification on at least pgs 5 and 7. The Examiner, however, cautions the Applicant against claims

that would read upon incorporating a human being as a part of the claimed subject matter, thus drawing a rejection based on 35 USC 101.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN FERTIG whose telephone number is (571)270-5131. The examiner can normally be reached on Monday - Friday 8:30am to 5:00pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B.F./

/Mary Cheung/
Primary Examiner, Art Unit 3694